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DOR 360



***City & Town* is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.**

**Dan Bertrand, Editor
Marilyn Browne, Editor Emeritus**

**Editorial Board: Robert Nunes,
Robert Bliss, Zack Blake, Amy
Handfield**

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A New *City and Town*

A year ago, we invited readers of *City and Town* to let us know what you thought about the publication in terms of its frequency and method of delivery, and more than 300 readers responded.

As a result, *City and Town* transitioned from a weekly to a twice-monthly publication and our mission to deliver original content composed by DLS staff was reaffirmed. We also promised to look for new and innovative ways to add color and supporting graphics using an e-newsletter format.

Well, here it is. This issue of *City and Town* reflects changes to make the publication more readable and more useful. We've add a feature at the top to let you know what to expect in the issue, included links in *City and Town* to frequently sought items on our web page such as the Municipal Databank in the menu bar on the left, and expanded our ability to creatively present content in a format that is more like a newsletter and less like blocks of text. As we move forward with DLS Strategic Plan initiatives to enhance DLS performance and provide better service to our stakeholders, we will continue to seek your input both on *City and Town* and the many other ways in which we interact with our constituents.

I'd like to thank Sandra Schafer of Sandra Schafer Design for her creative ideas and designs, David Davies and Arnold Kanter from DLS Information Technology and my fellow Editorial Board members, Dan Bertrand, Zack Blake, Bob Bliss, Amy Handfield and our Editor Emeritus, Marilyn Brown.

We hope you like these changes. As always, we want to hear your thoughts and suggestions.

Robert G. Nunes
Deputy Commissioner and Director of Municipal Affairs
Nunesr@dor.state.ma.us

Court Upholds Education Reform Act's Financing Formula

James Crowley, Esq., Bureau of Municipal Finance Law

The Supreme Judicial Court earlier this year rejected claims filed by the towns of Dartmouth and Fairhaven over how costs for the Greater New Bedford Regional Vocational Technical High School were apportioned among the two towns and the City of New Bedford. The decision is *Town of Dartmouth v. Greater New Bedford Regional Vocational Technical High School District*, 461 Mass. 366 (2012).

Pursuant to Chapter 428 of the Acts of 1971, a majority of the voters in the communities of New Bedford, Dartmouth and Fairhaven voted to accept the terms of the special act and form a regional vocational school for grades nine through 12. The regional agreement which was approved by the member communities established a method for apportioning capital and operating costs among them. Operating costs, which were defined as all costs not included in capital costs, were to be apportioned on the basis of each community's per pupil enrollment in the regional school district.

Twenty-two years later in June 1993, the Legislature enacted the Education Reform Act in response to the Supreme Judicial Court decision of *McDuffy v. Secretary of the Executive Office of Education*, 415 Mass. 545 (1993). In *McDuffy*, the Court held that the Commonwealth had failed in its constitutional duty to ensure the education of its children in the public schools. According to the Court, this failure to educate could be attributed to grossly inadequate financial support. Specifically, the Court criticized the State's school funding system which relied almost exclusively on local property taxes. Enacted then by the Legislature, the Education Reform Act established a foundation budget for each school district which is defined as the minimum funding required to provide an adequate educational program.

With regard to regional school districts, the Commissioner of Education using a wealth based formula establishes annually each member community's required local contribution. As a result, wealthier communities would make larger financial contributions to the operation of the school district than less affluent communities. Under its provisions, the Education Reform Act would then require the Commonwealth to supply the necessary funding to the extent members' mandatory funding obligations do not satisfy the district's foundation budget.

In the case at hand, the towns of Dartmouth and Fairhaven filed suit in Superior Court in 2008 challenging the funding obligations placed on school districts by the Education Reform Act. The towns of Dartmouth and Fairhaven paid \$3.7 million and \$3.3 million

more respectively for fiscal years 2003 through 2008 than they would have paid under the original per pupil regional agreement. In contrast, the city of New Bedford paid during the same time frame \$7.1 million less than what would have been required under the district agreement. In their complaint, the two towns contended that the Education Reform Act did not repeal the regional school district agreement with its payment formula based on enrollment. The towns also alleged that the Education Reform Act was unconstitutional. The Superior Court Judge dismissed their claims and an appeal was made to the Supreme Judicial Court.

In announcing its standard of review, the Supreme Judicial Court recognized that there was a strong presumption that an earlier special act could exist harmoniously with later general legislation and not be repealed by it. In this instance, however, the Court found that the earlier regional school district legislation was so inconsistent with the Education Reform Act that both could not co-exist in harmony. Therefore, in the Court's view, the Education Reform Act superseded the earlier special legislation.

According to the Court, the Education Reform Act created a radical restructuring of funding for public education in the Commonwealth. By its terms, the Education Reform Act was comprehensive legislation designed to address the unconstitutional education funding problem outlined in McDuffy. According to the Court, it was the legislative intent that wealthier communities pay proportionately more than less affluent communities for educational programs. For this reason, the Supreme Judicial Court held that the Greater New Bedford regional agreement with its per pupil costs was sharply contrary to the provisions of the Education Reform Act. Furthermore, the Court found that the Legislature had expressed its intent to implement a new funding model quite clearly in M.G.L. Ch. 70 Sec. 6 which states in pertinent part: Notwithstanding the provisions of any regional school district agreement, each member municipality shall increase its contribution to the regional school district each fiscal year by the amount indicated in that district's share of the municipality's minimum regional contribution in that fiscal year." For these reasons, the Court wrote that the Education Reform Act was comprehensive legislation which superseded regional agreements.

Turning then to the constitutional arguments, the Court held that Dartmouth and Fairhaven were political subdivisions of the Commonwealth and, as such, were not "persons" for the purpose of challenging the Education Reform Act. In addition, Dartmouth and Fairhaven had no standing or legal ground to raise a claim under the Home Rule Amendment since public education was a matter of State concern and was a subject that came within retained legislative power.

Accordingly, the Supreme Judicial Court ruled that the funding mechanism under the Education Reform Act overruled any previous regional school funding agreement made by the three

communities.

Bulletin 2012-05B: "Sewer Rate Relief Fund - FY2013"

Bureau of Accounts

The bulletin can be found at the following:

<http://www.mass.gov/dor/docs/dls/publ/bull/2012/2012-05b.pdf>

The Sewer Rate Relief Fund operates under the provisions of Chapter 29 Section 2Z of the General Laws to mitigate escalating costs of sewer service in the Commonwealth.

SEPTEMBER MUNICIPAL CALENDAR

September 15: Accountant/ Assessors

Jointly Submit Community Preservation Surcharge Report

This report (CP-1) is a statement of the prior year's net Community Preservation Surcharge levy, and is used to distribute state matching funds on November 15.

September 15: Local Reporting Officers

Submit Smart Growth School Cost Reimbursement Report to DLS

Local Reporting Officers report (a) local smart growth property tax and excise tax revenue for prior fiscal year or (b) municipality's waiver of reimbursement.

September 30: Taxpayer

Deadline for Submitting Forest Land Certification and Management Plan, M.G.L. Ch. 6

According to M.G.L. Ch. 61, Section 2, this is the deadline to submit to the Assessors the State Forester's certification and approved management plan in order to have the land valued as classified forest land in the next fiscal year.

September 30: Municipal and District Treasurer/Collector

Submit Compensating Balance Report

If compensating balance accounts were maintained during the prior fiscal year, a report and account analysis schedules must be submitted to DOR.

September 30: Accountant/ Superintendent/ School Committee

Jointly Submit End of Year Report to the DESE

Schedule 1 - determines compliance with prior year Net School Spending requirement.

Schedule 19 - determines compliance with current year Net School Spending requirement.

September 30: Accountant

Submit Snow and Ice Report

This report is a statement of snow and ice expenditures and financing sources.

September 30: Treasurer

Year-End Cash Reconciliation for the Previous Fiscal Year (due upon submission of a balance sheet for free cash/excess and deficiency certification)

A reconciliation is the process of comparing the Treasurer's accounts to the Accountant's/ Auditor's or Schools Business Manager's ledger balance to determine if they are consistent, and for the officials to make any necessary corrections. When the reconciliation is complete, the Accountant/Auditor/School Business Manager should indicate agreement with the Treasurer's balances. Reconciliations are required annually, but communities and school districts should reconcile monthly for their own purposes. The year-end report as of June 30 must be completed and returned to DOR. Municipalities and school districts should also use monthly reports to monitor cash practices of the Treasurer's office. If the Accountant/Auditor/School Business Manager and Treasurer are not consistently reconciling cash accounts, or if the reconciliations indicate variances, the Mayor, Selectmen or School Committee should inquire as to the reasons

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September 30: Treasurer

Submit Statement of Indebtedness

Massachusetts General Laws Ch. 44, Sec. 28 requires the Director of Accounts to maintain complete and accurate records of indebtedness by cities, towns and districts. This statute also requires Treasurers to furnish any other information requested by the Director in respect to the authorization and issuance of loans. This Statement is the annual report required from Treasurers to accomplish this purpose. Treasurers should reconcile their debt records with the Accountant/Auditor before filing the Statement of Indebtedness to ensure that the Statement and balance sheet are in agreement.

September 30: State Treasurer

Notification of Quarterly Local Aid Payments on or Before September 30

When local aid payments are transmitted to communities, the cover letter indicates what funds will be made available, less quarterly assessments (see Cherry Sheet attachment for details).